IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 325 of 2005
in
Chamber Summons No. 40 of 2004
in
Exlecution (Lod) No.453 of 2002

Rajesh Dhirajlal Vora ...Appellant

vs.

1. M/s Marine Container
Services (India) Pvt.Ltd.
and ors. ..Respondents

Mr.B.B.Parekh i/b Mr.Jayant Pol for appellant.
Mr.Gautam Panchal i/b M/s Bilawala & Co. for respondents.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
20th April, 2005

P.C.

1. Heard Advocates.

2. The respondents took out Chamber Summons No.1505 of 2002 under Order 21 Rule 41 of the CPC seeking an order that the appellant be directed to disclose on oath the particulars of all assets, both movables and immovables belonging to him and owned by the appellant either singly or jointly with any person or persons and/or in any capacity. By order dated 9th June, 2003 the said chamber summons was allowed and the appellant was directed to file the affidavit stating the particulars of assets of the appellant. However, the appellant

failed to file the affidavit disclosing the assets held by him. Therefore, respondent took out another Chamber Summons being Chamber Summons No.40 of 2004.

3. Admittedly the aforesaid chamber summons was served upon the appellant on 20th January, 2004. However, still the appellant failed to comply with the order and no affidavit disclosing the assets held by him was filed nor any reply was filed in reply to the chamber summons. The learned single Judge held that the appellant has scant regard to the judiciary and the conduct of the appellant in refusing to file the affidavit on oath disclosing the assets held or belonging to him clearly constitutes willful disobedience of the Court order. The learned single Judge held that that this is a fit case for passing an order under Order 21 Rule 41 of the Code to detain the appellant in civil prison. Accordingly the appellant was ordered to be detained in civil prison for a period of one month from the date of execution of the arrest warrant for willfully disobeying the Court's order dated 9th June, 2003. Against the order of the learned single Judge the appellant has preferred the present appeal.

4. Pursuant to the directions given by the learned vacation Judge the appellant has filed necessary

affidavit and has complied with the order. He has also tendered unconditional apology to the Court. Having regard to the fact that the appellant has already complied with the order passed in the chamber summons and also having regard to the fact that he has tendered unconditional apology we set aside the order of the learned single Judge, however, in the facts and circumstances of the case we direct the appellant to pay cost to the respondent quantified at Rs.2000/- within two weeks.

5. Appeal is disposed of accordingly.